Response to Visigothic Symposium I, Panel 2: Law

PAULO PACHÁ
UNIVERSIDADE FEDERAL FLUMINENSE

***

It is my pleasure to be part of the first Visigothic Symposia, and I want to praise Michael Kelly and Dolores Castro for their initiative and the direction they provided to the papers gathered here. In my view, as soon as Kelly and Castro have finished the publication of all the planned Visigothic Symposia, they will have made a very important contribution to our field: a snapshot of contemporary Visigothic Studies with all that it means – that is to say, diverse theoretical perspectives, diverse themes related to Visigothic society and diverse regions of the globe represented by the authors. I also want to highlight what I see as one of the most important (political) principles of the project: it is inherently open-access.

My objective in this response paper is twofold: I want to consider very briefly how each of the articles in the “Law” section adds up to our understanding of Visigothic law, and I also want to offer some minor critiques of the authors’ approaches and perspectives by suggesting some changes that could enhance further our understanding of the subject. I mean to do it as a way to engage in some debate with the other contributors, rather than just summarize them, what is usually absent from our academic exchanges. I will not try to directly (and forcibly) relate each paper with the others, as I consider the collection’s
heterogeneity to be one of its most interesting features. Rather, I will try to point out some threads that run through all these articles as a means to foster further debate.

The most important thread I am able to see woven across all the articles is the one that relates the law’s process of production, its meaning and reception. That is to say, all the articles gathered in this section frame, in one way or another, how the Visigothic law – be it the LI or the councils’ canons – was produced, the necessities or projects to which it was a response and its later uses and adaptations. In so doing, all the articles examine how their specific context was a driving force to these operations, but also how the past was a major influence in it.

Ruth Miguel Franco’s and Michael Kelly’s respective articles are as close in their subject as they are different in their approaches. Nevertheless, they appear as complementary perspectives and are major contributions to our understanding of the LI’s production process and meaning. Here I want to consider them together as my critique to both articles is essentially the same.

Ruth Miguel Franco’s article – “Sub titulis misi, in libros diuisi: Braulio of Zaragoza and His Arrangement of Materials” – is the most direct take on the LI’s material process of production is. This article is a major contribution to Visigothic studies and it builds upon the author’s prior work on the role played by Braulio of Zaragoza in the editing process (that is to say, the production process) of the LI.¹ Here the author demonstrates her

hypothesis in a concluding manner, even more strengthened as the author relates it to Braulio’s “editorial practices,” also analyzed in detail. In this way, the article’s contribution is a double one: on the one hand, it shows beyond any doubt that Braulio was indeed one of the LI’s editors; on the other hand, it highlights the importance of Braulio’s work in regard to the LI’s other dimensions. Concerning this second contribution, Miguel Franco is able to show how the LI’s aesthetics was an important element of its meaning.

Michael Kelly’s article – “Recceswinth’s Liber Iudiciorum: History, Narrative and Meaning” – offers a very original and important interpretation of the LI. According to the author, Recceswinth’s LI was more than just a law code, it was “a spiritually imbued legal-historical narrative that directed memory, invented religious associations, and promoted his dynasty” (p. 111). By developing this characterization of the LI, Kelly was able to go beyond the simple opposition between “functionality vs symbolism” to present the LI as “operative law performing in literary ways” (p. 126). In this way, the author shows how the meaning of the LI is much more complex than we would expect from a “simple” law code.

Both Miguel Franco’s and Kelly’s articles, albeit in different ways, deepens our understanding of the LI’s production process and meaning, and they deserve much praise for that. Nevertheless, both articles also show how any analysis of the LI cannot do without a general model of the Visigothic state and its process of development. Moreover, for both articles this model still is the one that frames the Visigothic state as caught in a constant
struggle between the monarchy and the aristocracy. This type of framing is not new in the historiography, but my critique here is that both Miguel Franco and Kelly tacitly accept it. The main consequence of this specific model is that it hinders the full development of the original and rigorous perspectives presented by the authors, as I aim to show below.

Being a general model of the Visigothic state’s structure and dynamics, what appears both in Miguel Franco’s and Kelly’s articles is the specific interpretation grounded in this model of the type of relationship between Chindaswinth’s and Recceswinth’s reigns – that is to say, rupture. This rupture between the two reigns would ground, in turn, the difference of each king’s approach to law. Miguel Franco expresses a more explicit perspective of this rupture, as she sees the $LI$ itself as “part of an ideological campaign to delegitimize his father [Chindaswinth] in order to legitimize him [Recceswinth]” (p. 144). In Kelly’s article, there is more nuance about this rupture, but it is still possible to say that Recceswinth changed the tone of government after his father’s death. According to Kelly, “The mood of terror, fear, distrust and general malaise, left behind by his father, was what Recceswinth inherited when he was raised as co-king in 649 and which he had to reconcile once he became sole king in 653, upon his father’s death” (p. 118). That is to say, even if to different degrees, both authors accept that there were some important differences between

---

Chindaswinth’s and Recceswinth’s reigns, specifically in the relationship between monarchy and aristocracy, and also that the LI is a central piece of its expression.

To be able to establish that Braulio was indeed editing a manuscript of the LI, Miguel Franco also had to propose an origin for that manuscript. In this way, Miguel Franco accepted P. D. King’s argument that Braulio was working on what should have been if not an earlier version of the LI itself, at least a “proto-LI” organized by Chindaswinth. According to Miguel Franco, “Although Chindaswinth probably did not get around to issuing a legal compilation able to be considered as a first edition of the LI, he could have given birth to a greater part of the elements that later would make up the Liber Iudiciorum” (p. 145). In addition, to make sense of the fact that Braulio was working on an already existing manuscript, “an organized volume containing the seeds of LI had to have existed” (p. 146). I do agree with Miguel Franco about the origin of Braulio’s manuscript but, in my view, it is hard to accept both propositions: that is to say, that such a clear rupture existed between Chindaswinth’s and Recceswinth’s reigns and, at the same time, that the son was continuing the legal reform designed by the father.

Similarly, one of the most interesting points developed by Kelly is how the LI was also a “historical narration.” In this way, Kelly is able to explain both why several laws were characterized as antiqua and why there are so few examples of legislative production of the kings that came before Chindaswinth. According to Kelly, “This was done not because kings in between them and Liuvigild did not legislate, but rather, the inclusion of them was

---

meant as a rhetorical device serving to collectivize the unnamed as past, as outside of the (significance of the) present” (p. 123). Kelly’s main point here (a very important one) is that in composing his code, Recceswinth was putting forth an explicit claim about his own role in Visigothic history. The other point in this argument is that Recceswinth did not exclude his father from his “historical narration” (within the LI) but, also according to Kelly, “Recceswinth included slightly more laws by his father. This was a literal and metaphorical subordination of the son to the father which elevated the memory of Chindaswinth and suggested the two kings as temporal versions of the holy father and son lawgivers” (p. 124). Here again I do agree with the point being argued, but I also think that it could be strengthened by framing the relationship between Chindaswinth’s and Recceswinth’s reigns not as one marked by difference or rupture, but also involving a great deal of continuity as it is expressed by this kind of discursive dispositive within the LI. In sum, Miguel Franco and Kelly’s article are major developments in our understanding of the LI, but I would add that the propositions put forth by the authors would be even stronger through a reexamination of the implicit models that exist today in Visigothic studies.

The second cluster of articles deals primarily not with production and meaning, but with production and reception – even if in two very different ways. Capucine Nemo-Pekelman’s article – “Divine Justice and Freedom: On Canon 57 of the Fourth Council of Toledo (633)” – proposes an interpretation of the Canon 57 of the IV Council of Toledo by means of tracing its “intellectual genesis” (p. 155). Ksenia Bonch Reeves’s – “Visigothic Law and the Adversarial Realm in the Kingdom of Asturias: Muslims as the New Jews?” – analyses how the LI was received and used in the Kingdom of Asturias.
Both articles have as their primary objective to explain how contemporary actors in the Early Middle Ages mobilized and adapted the past in the contexts of law production. Nemo-Pekelman starts from the Canon 57 of IV Council Toledo. She then looks back to Isidore’s *Sententiae* and to the “Augustinian theology of grace and freedom” (p. 165) to understand how this canon was both a response to contemporary conditions and a commentary on the past (that is to say, a reply to Sisebut’s ruling in 615 on the forced baptism of Jews). Reeves starts from the Kingdom of Asturias and looks back to the *LI* within the Visigothic context to analyze how it was adapted and provided a necessary framework for the relationships between Christians and Muslims. According to the author, this discursive strategy had a double objective: to strengthen the idea of continuity between the Asturian and Visigothic kingdoms; and to provide a well-established model of doctrinal critique that could be adapted to frame the Muslims.

In this way, both articles illustrate that law was never only contextual and how societies had to quilt it together from the past and present. One way to see it is that, in this process, the past was necessarily adapted and remade to express whatever was needed – that is to say, the past presented several possibilities. Another way to see it – and one that these contributions excelled at showing – is to make it clear how the past limited the present’s possibilities. In this way, law’s production, meaning and reception were entangled dimensions, a complex whole that we cannot understand through one-sided perspectives.

After the publication of this first number of *Visigothic Symposia*, we already have a fragment of the snapshot – mostly framed by law – I mentioned before. It is clear that this
is a thriving field of studies, with practitioners from around the globe and that brings forth the most diverse theoretical perspectives. Given this heterogeneity, on the one hand, it is difficult to discern clear paths of development of the field, even if only about law; on the other hand, it is evident that these articles challenged in several ways our collective understanding of Visigothic law and that it is now a much broader one. That is to say, even if the articles gathered in this symposium do not share theoretical or historiographical perspectives, all of them are important contributions to the field. I am sure that the next volumes will bring other rounds of precious contributions and that, sooner rather than later, strong collective perspectives will emerge and establish new paradigms in the field of Visigothic Studies.